



Distr.
LIMITED
ESCWA/OES/2003/CRP.8
9 July 2003
ORIGINAL: ENGLISH

Economic and Social Commission for Western Asia

Workshop on Iraq and the Region After the War:
Issues of Economic and Social Reconstruction
Beirut, 9-11 July 2003

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03-0572

UNITED NATIONS
ECONOMIC AND SOCIAL COMMISSION FOR WESTERN ASIA

WORKSHOP ON IRAQ AND THE REGION AFTER THE WAR:
ISSUES OF ECONOMIC AND SOCIAL RECONSTRUCTION

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WHAT POSSIBLE ROLE FOR THE UNITED NATIONS IN IRAQ?

*PRELIMINARY THOUGHTS IN LIGHT OF PREVIOUS UN PEACE OPERATIONS IN
CAMBODIA, KOSOVO, EAST TIMOR, AND AFGHANISTAN*

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11 JULY 2003-UN HOUSE-BEIRUT

I. INTRODUCTION: UNITED NATIONS IN PEACE OPERATIONS

A. Evolution of United Nations Peace Operations

Any role assigned to the United Nations (UN) following the collapse of the Iraqi government and the occupation of Iraq should be analyzed in the context of recent UN peace operations in the post-Cold War era. During the Cold War, peacekeeping emerged as a key tool through which the UN could fulfill its primary goal of maintaining peace and security.¹ However, the role of the UN in securing peace in conflict areas has now evolved from simple 'peace-keeping' to 'peace-building' (including state-building and the transitional administration of territories). In the words of Julian Harston, Director of the Asia and Middle East Division in the UN's Peacekeeping Department,

The United Nations approach to peacekeeping operations has transformed over the last decade. Earlier, peacekeeping operations primarily consisted of monitoring cease-fire arrangements, assisting in troop withdrawals, providing buffer zones between opposing forces and helping in the implementation of a final settlement. Today, peacekeeping operations are increasing multi-dimensional and, in addition to some of the more standard features of peacekeeping operations, they possess elements that are reminiscent of the United Nations trusteeship process for decolonization.

The development of multi-dimensional United Nations peacekeeping operations has been in great part a response to the burgeoning of post-Cold War civil conflicts. These conflicts, often triggered by various kinds of disputes, are usually propelled by large underlying problems, such as the lack of credible political structures, an absence of mechanisms for the orderly transfer of power, human rights violations and social inequalities.²

The path towards this evolution started formally when former Secretary General Boutros Boutros Ghali issued an *Agenda for Peace* in 1992. Boutros Ghali defined peacekeeping simply as "the deployment of a United Nations presence in the field, hitherto with the consent of all the parties concerned," and went on to clarify that "peacekeeping is a technique that expands the possibilities for both the prevention of conflict and the making of peace." Crucially, the concept of multi-dimensional 'peace-building' emerges when Boutros Ghali makes clear that for both 'peace-keeping' and 'peace-making' to be successful, they must "include comprehensive efforts to identify and support structures which will tend to consolidate peace and advance a sense of confidence and well-being among people." In other words, the UN must focus on the political and institutional aspects if it is to succeed in building true peace in war torn countries.

As a result of Boutros Ghali's seminal report, the 1990s saw a proliferation of complex missions and operations from Cambodia to Somalia, Bosnia to Mozambique and Sierra Leone. While a number of these missions were successful, there were some notable failures such as in Bosnia and Rwanda. This led to Secretary General Kofi Anan's decision in March 2000 to convene a high-level Panel on United Nations Peace Operations, chaired by Lakhdar Brahimi, "to assess the short-comings" of the existing peacekeeping system and "to make frank, specific and realistic recommendations for change."³ The *Report of the Panel on the UN Peace Operations* (referred to as the Brahimi Report) concluded that "the key conditions for the success of

¹ This is despite the fact that the UN Charter itself makes no mention of peacekeeping. Indeed, as Shalini Chawla asserts, peacekeeping was "a major creative invention of the UN" and was "was adopted during the Cold War as a substitute for collective security and in response mostly to stalemate between the permanent members of the Security Council." Shalini Chawla, "Trends in United Nations Peacekeeping" in *Strategic Analysis*, January 2001 (Vol. XXIV, No. 10), p.1.

² Julian Harston, "Transformation of UN Peacekeeping: Role of the International Community in Peace-Building," statement delivered at the Japan Institute of International Affairs and United Nations University Joint Symposium on *The Role of Peace Keeping Operation in the Process of Nation Building—Peace-Building Experience in East Timor* (18 September 2002).

³ United Nations, *Report of the Panel on United Nations Peace Operations* (A/55/305-S/2000/809), 21 August 2000.

future complex operations are political support, rapid deployment with a robust force posture and a *sound peace building strategy* (emphasis added)." The report goes on to define peace-building (one of three principle activities of UN peace operations, along with conflict prevention and peace-keeping) as:

activities undertaken on the far side of conflict to reassemble the foundations of peace and provide the tools for building on those foundations something that is more than just the absence of war. Thus, peace-building includes but is not limited to reintegrating former combatants into civilian society, strengthening the rule of law (...); improving respect for human rights through the monitoring, education and investigation of past and existing abuses; providing technical assistance for democratic development (including electoral assistance and support for free media); and promoting conflict resolution and reconciliation attempts.⁴

B. Models for UN peace operations

In general there have been four basic models for UN missions:

1. **Traditional peacekeeping (1):** This comprised most of the peace-keeping operations until the early 1990s. They are under the exclusive authority of the Security Council, which has overall responsibility, and the Secretary General (SG) acts as the executive director (while an appointed Chief of Mission is given command on the ground). The main function is to separate warring parties or states, and maintain security and order. They are deployed only with the consent of the territorial state and are instructed to act in a neutral and impartial manner. Examples include UNOSOM (Somalia), UNIFIL (Lebanon), and UNPROFOR (Bosnia and Herzegovina).
2. **Traditional Peacekeeping (2):** United Nations Emergency Force (UNEF) was the exception that allowed the General Assembly—rather than the Security Council, which was divided—to enact the “Uniting for Peace” mechanism in 1956. This authorized the SG to create a military force mandated to secure the withdrawal of foreign troops from Egypt following the Suez War and then serve as a buffer force between Egypt and Israel.
3. **UN forces supervising implementation of peace agreements:** Examples includes UNTAC in Cambodia and UNAMA in Afghanistan.
4. **UN forces administrating a region during a transitional period.** Examples include UNMIK in Kosovo and UNTAET/UNMISSET in East Timor.

The recent UN interventions have been more of the ‘peace-building’ missions, rather than the more traditional ‘peace-keeping’. As such, this paper will briefly examine the UN’s role in four such ‘peace-building’ missions--Cambodia, Kosovo, East Timor, and Afghanistan--to draw from the lessons the UN has learned from then, and to better understand the options available to the UN in Iraq. Finally, this paper will offer a preliminary analysis of the current, rather ambiguous UN role in Iraq, and explore the possibilities available to it.

⁴ Ibid., p.3.

II. CAMBODIA: UNITED NATIONS TRANSITIONAL AUTHORITY IN CAMBODIA (UNTAC)

The United Nations played an important role during the decade long attempts to reach a cease fire in Cambodia. It was also instrumental in the two sessions of the Paris Peace Agreements (1989 and 1991) that resulted in a comprehensive peace settlement. Moreover, through UNTAC, the UN played a decisive role in the transitional period until the conclusion of general elections in 1993.

A. Background

The brutality of the Cambodian civil war, as well as the nature of foreign intervention, necessitated the involvement of the United Nations. On 30 July 1989, the international community--as represented by the UN and the major regional and international powers--and the four main Cambodian Parties met in Paris to forge a comprehensive settlement. However, these negotiations were suspended on 30 August 1989 as it became clear that there was not yet consensus. The co-presidents of the first session, the French and Indonesian foreign ministers, and the Secretary General (SG) undertook extensive consultations with the permanent members of the SC and the main Cambodian Parties.

Box 1. Parties to the Two Sessions of the Paris Peace Conferences on Cambodia (1989/1991)

Australia, Brunei Darussalam, Cambodia, Canada, China, France, India, Indonesia, Japan, Laos, Malaysia, Philippines, Singapore, Thailand, Soviet Union, UK, USA and Vietnam.

The Non-Aligned Movement was also represented.

In the first session (1989), Cambodia was represented by its four main Parties: the PDK (the Khmer Rouge), the SOC, the National United Front for an Independent, Neutral, Peaceful and Cooperative Cambodia (FUNCINPEC), and KPNLF.

In the second session (1991), The Supreme National Council of Cambodia (SNC), led by President HRH Prince Sihanouk represented Cambodia.

The French and Indonesian Foreign Ministers, Roland Dumas and Ali Alatas were co-Presidents.

At an informal meeting held in Jakarta on 10 September 1990, the four main Cambodian Parties agreed to form the Supreme National Council (SNC) that would henceforth represent Cambodia in all peace negotiations. Prince Sihanouk was elected as the SNC's chairman. At the request of the SNC, the UN Security Council (SC) Resolution 717 (16 October 1991) authorized the creation of a United Nations Advance Mission in Cambodia (UNAMIC) immediately after the signing of the agreements for a comprehensive political settlement for Cambodia. Shortly thereafter, the second session of the Paris Conference commenced, resulting in the 23 October Agreement on a Comprehensive Political Settlement of the Cambodian Conflict; Agreement Concerning Sovereignty, Independence, Territorial Integrity and Inviolability, Neutrality and National Unity of Cambodia; and the Declaration of the Rehabilitation and Reconstruction of Cambodia.

Box 2. Key excerpts from the Declaration on the Rehabilitation and Reconstruction of Cambodia

- The primary objective of the reconstruction of Cambodia should be the advancement of the Cambodian nation and people, without discrimination or prejudice, and with full respect for human rights and fundamental freedom for all. The achievement of this objective requires the full implementation of the comprehensive political settlement.
- The main responsibility for deciding Cambodia's reconstruction needs and plans should rest with the Cambodian people and the government formed after free and fair elections. No attempt should be made to impose a development strategy on Cambodia from any outside source...
- An important role will be played in rehabilitation and reconstruction by the United Nations system
- The implementation of a longer-term international development plan for reconstruction should await the formation of a government following the elections and the determination and adoption of its own policies and priorities.

The UN SC Resolution 718 endorsed these agreements eight days later, called on the SG to designate his Special Representative for Cambodia, and requested the SG to prepare a report containing his implementation plan for UNTAC.

Box 3. UNAMIC⁵

Established to assist the four Cambodian Parties to maintain their ceasefire during the period prior to the establishment and deployment of the United Nations Transitional Authority in Cambodia, and to initiate mine-awareness training in civilian populations. Later, the mandate was enlarged to include a major training programme for Cambodians in mine-detection and mine-clearance, and the mine-clearing of repatriation routes, reception centers, and resettlement areas.

UNAMIC was absorbed by UNTAC in March 1992.

B. UNTAC's Mandate

Article 2 of the 1991 Paris Agreement states the "the Signatories invite the United Nations Security Council to establish a United Nations Transitional Authority in Cambodia [UNTAC] with civilian and military components under the direct responsibility of the Secretary General of the United Nations." Article 2 also calls on the SG to designate a Special Representative to act on his behalf.

Article 6 delegates to the UN "all powers necessary to ensure the implementation of this Agreement."

Annex I details UNTAC's precise mandate, covering civil administration, military functions, elections, and human rights. The annex first specifies clearly what the implementing mechanism is to resolving all issues that arise between the UN and the SNC. The SNC "offers advice" to UNTAC. If there is consensus within the SNC, then UNTAC will comply with this advice. If there is no consensus, the President of the SNC (Prince Sihanouk) will offer this advice himself. Failing this, the SG's Special Representative (SR) will have the authority to make the final decision. It makes clear that the SR will in all cases determine if the advice given him complies with the Paris Agreements. In this sense, the SR is empowered to intervene if the SNC is unable to make a decision and to ensure that the Peace Agreement is complied with at all times.

a. Civil Administration

As for its civil administration function, UNTAC was given direct control of all administrative agencies, bodies, and offices acting in the field of foreign affairs, national defense, finance, public security, and information. The SR may issue directives, which bind all Cambodian parties, as well as install in any administrative body UN personnel who would have unrestricted access to all information and operations. Moreover, the SR determines what kind of civil police is necessary to ensure the fair and effective maintenance of the law, and this civil police operates under UNTAC supervision or control. Indeed, UNTAC supervises other law enforcement and judicial processes throughout Cambodia.

b. Military functions

UNTAC was also given a military mandate in Annex 1. This included the supervision and verification of foreign troop withdrawals from Cambodia (including their non-return), monitoring the cessation of outside military assistance to all Cambodian Parties, the confiscation of existing weapons and military supplies throughout the country, and the clearance of mines. (ANNEX 2).

⁵ http://www.un.org/Depts/dpko/dpko/co_mission/unamic.htm.

c. Elections

UNTAC was mandated to 'organize and conduct' general elections of a constituent assembly for the Cambodian people, while all the Cambodian parties agreed to commit themselves to the election outcome. UNTAC was thus authorized to establish a system of laws, procedures and administrative measures (including the adoption of an electoral law and the design and implementation of a voter registration and education system) to accomplish this, in consultation with the SNC. UNTAC would have overall direction of polling and vote count during the elections, and would have the authority to investigate complaints of electoral irregularities, determine whether the elections were 'free and fair', and certify the list of elected persons.

d. Human rights

UNTAC was further authorized to develop and implement a programme for human rights education for Cambodia, oversee the human rights situation during the transitional period, and investigate human rights complaints.

C. UNTAC and The Transition Period

UNTAC was established for a period of 18 months by Security Council Resolution 745 (28 February 1992), which endorsed the 19 February SG's report on UNTAC's implementation plan. This resolution confirms the SG's recommendation that UNTAC became operational on 15 March 1992, it absorbed UNAMIC. Elections were to be set no later than May 1993.

Box 4. Most urgent problem faced by UNTAC

The Khmer Rouge party (the PDK), one of the four Cambodian signatories to the first session of the Paris Agreement, was refusing to cooperate with UNTAC in implementing Phase II of the agreed upon cease fire (the disarming and demobilization phase). The PDK refused to allow UNTAC forces to deploy in the areas under its control, and continued to spread fear among the Cambodians.

The intransigence of one key party to the Peace Agreement provided a serious challenge to UNTAC fulfilling its mandate. In his July 1992 report, the SG offered the SC two choices: either to suspend the operation until all parties had complied with Paris Agreements; or to pursue its objectives despite the PDK, demonstrating the international communities' resolve. The SC backed the SG in his efforts to continue the process towards elections in May 1993. Indeed, SC Resolution 783 (13 October 1992) further demanded that the PDK fulfil its obligations under the Paris Agreements.

The PDK, however, remained intransigent. The UN SC continued to support the SG's 'patient diplomacy', insisting that the elections still be held in all areas that UNTAC had full access to as end of January 1993. Despite increased violence and the official withdrawal of the PDK, elections were finally held in May 1993.

III. KOSOVO: UNITED NATIONS MISSION IN KOSOVO (UNMIK)

A. Background

The conflict in Kosovo resulted in grave humanitarian crisis. Nearly half of Kosovo's population (estimated at 1.7 million in 1998) fled to Albania, FYR Macedonia and Montenegro in the space of just one year, while over 500,000 were internally displaced lacking food or shelter.⁶ This situation resulted in the international community's insistence that a cessation of hostilities and stabilization of the security situation in Kosovo be implemented. The major national and international powers met in Rambouillet, France to reach an agreement for Kosovo self-rule acceptable to all. The resulting 23 February 1999 *Interim Agreement for Peace and Self-Governance in Kosovo* ("Rambouillet Agreement") aimed at a 'democratic self-government' in Kosovo which was 'grounded in respect for the territorial integrity and sovereignty' of Yugoslavia. However, the federal Yugoslav authorities could not accept NATO military forces in Kosovo—which the United States insisted on—and the Yugoslav parliament rejected the agreement.

Box 5. The Rambouillet Accords

The Rambouillet Accords were put forth by Contact Group (France, Germany, Italy, Russia, UK, USA) for consideration by the national parties to the conflict in Kosovo.

Under the Agreement, Kosovo would have self-rule, but federal authorities would still have general authority in matters such as territorial integrity, monetary policy, defense, foreign policy, federal taxation and elections. The Organization of Security and Cooperation in Europe (OSCE), in cooperation with the European Union, would constitute an 'Implementation Mission' in Kosovo. A Joint Commission—chaired by the Chief of the Implementation Mission (CIM) and consisting of one Federal and one Republic representative, one representative of each national community in Kosovo, the President of the Assembly, and a representative of the President of Kosovo--would serve as the 'central mechanism for monitoring and coordinating the civilian implementation of this Agreement.' If no consensus is reached by the Commission, the Chair's decision would be final. A key objective would be to carry out general elections within nine months of the Agreement coming into force.

For the most part, Yugoslavia agreed to these provisions. It is the second part of the implementation plan in Rambouillet that the federal authorities could not accept, namely the deployment of NATO forces (K-FOR) as a multinational military implementation force in Kosovo. The United States insisted that only NATO should take up this task, as opposed to a United Nations force or even one under the leadership of the OSCE. Negotiations broke down between the US and Yugoslavia, despite the fact that the latter was willing to accept some other form of multinational military force in Kosovo.

On 24 March 1999, NATO launched a war against Yugoslavia, arguing that the grave human rights violations perpetrated against the people of Kosovo demanded such an intervention. The UN Security Council did not authorize this war, which lasted for 78 days. However, at the end of the war, the UN SC passed resolution 1244 (10 June 1999) authorizing 'the deployment in Kosovo, under UN auspices, of international civil and security presences'. It also decided that a political solution to the Kosovo crisis would be based on the general principles agreed to by the G-8 Foreign Ministers on 6 May 1999 (see box 6 below).

Box 6. Statement by the Chairman on the conclusion of the meeting of the G-8 Foreign Ministers held at Petersberg Centre on 6 May 1999

On 6 May 1999, the G-8 Foreign Ministers adopted the following general principles on the political solution to the Kosovo crisis:

- Immediate and verifiable end of violence and repression in Kosovo
- Withdrawal from Kosovo of military, police and paramilitary forces

⁶ United Nations Security Council, *Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo* (S/1999/779) of 12 July 1999.

**Box 6. Statement by the Chairman on the conclusion of the meeting of the G-8 Foreign Ministers
(Continued)**

- Deployment in Kosovo of effective international civil and security presences, endorsed and adopted by the United Nations, capable of guaranteeing the achievement of common objectives
- Establishment of an interim administration for Kosovo to be decided by the Security Council of the United Nations to ensure conditions for a peaceful and normal life of all inhabitants in Kosovo
- The safe and free return of all refugees and displaced persons and unimpeded access to Kosovo by humanitarian aid organizations
- A political process towards the establishment of an interim political framework agreement providing for a substantial self-government for Kosovo, taking full account of the Rambouillet accords and the principles of sovereignty and territorial integrity of the Federal Republic of Yugoslavia and the other countries of the region, and the demilitarization of the KLA
- Comprehensive approach to economic development and stabilization of the crisis region

This statement was included as "annex 1" to UN SC resolution 1244.

B. UNMIK's Mandate: Integrated Civilian Presence in Kosovo

UN SC resolution 1244 authorized the SG to establish an "international civil presence in Kosovo in order to provide an interim administration for Kosovo under which the people of Kosovo can enjoy substantial autonomy." The main responsibilities of this international civil presence include: promoting self-government in Kosovo; performing basic civilian administrative functions; developing provisional institutions for democratic and autonomous self-government; transferring administrative responsibilities to Kosovo's emerging local provisional institutions; facilitating a political process to determine Kosovo's future status; overseeing the transfer of authority from Kosovo's provisional institutions to permanent ones established by the political process; supporting the reconstruction of key infrastructure and other economic reconstruction; supporting humanitarian relief aid; maintaining civil law and order; protecting human rights; and assuring the safe return of all refugees and displaced persons to their homes in Kosovo.

Resolution 1244 also calls for the establishment of an international security presence--defined in the resolution's annex as having a "substantial" NATO participation--authorized to 'establish a safe environment for all people in Kosovo and to facilitate the safe return to their homes of all displaced persons and refugees.' The NATO-led Kosovo Force (KFOR) was deployed on 12 June 1999 in Kosovo to oversee the withdrawal of the Yugoslav army and the Serbian security forces (as set out by the military-technical agreement signed with NATO) as well as the demilitarization of the Kosovo Liberation Army (KLA).

Resolution 1244 also calls on the SG to appoint a Special Representative (SR) to "control the implementation of the international civil presence" and coordinate with the international security presence. While Sergio Vieira de Mello was appointed SR *ad interim*, Bernard Kouchner (France) was appointed on 2 July 1999 as the SR. Hans Haekkerup (Denmark) succeeded him in January 2001. As head of UNMIK, the SR is the highest international civilian official in Kosovo, who is mandated to facilitate a political process to determine Kosovo's future status (taking into account the Rambouillet Accords).

Box 7 UNMIK's General Strategy and Structure

UNMIK's General Strategy

The SG's 12 July report sets out five distinct phases of UNMIK's planned activities. This vision was important as it allows UNMIK a clear mandate and timetable. The five phases are the:

1. Establishment and consolidation of UNMIK's authority and the creation of interim UNMIK-managed administrative structures.
2. Administration of social services and utilities, and consolidation of the rule of law.

Box. 7 UNMIK's General Strategy and Structure (continued)

3. Finalization of preparations for and conduct of elections to the Kosovo Transitional Authority.
4. Oversee and assist elected Kosovo representatives in their efforts to organize and establish provisional institutions for democratic and autonomous self-government.
5. Oversee the transfer of authority from Kosovo's provisional institutions to institutions established under a political settlement.

UNMIK's Structure

As for UNMIK's structure, it is composed of four main components each led by a different partner, though they are all under the UN's overall jurisdiction:

1. Civil administration (led by the United Nations)
2. Humanitarian (led by the UNHCR)
3. Institution-building (led by OSCE)
4. Reconstruction (led by the EU)

In addition, a NATO led force (Kosovo Force, or KFOR) provides the international security presence.

The SG's Special Representative is the highest international civilian official in Kosovo, and enjoys the maximum civilian executive powers vested in him by SC resolution 1244. The SR will facilitate a political process to determine Kosovo's future status (taking the Rambouillet Accords into account). Four Deputy Special Representatives (one each for the four main functions of UNMIK) and one Principle Deputy Special Representative (whose main function is to ensure a coordinated and integrated approach) assist the SR.

Finally, a Joint Planning Group (JPG)--chaired by the Principle SR and composed of senior staff from each lead organization (UNHCR, OSCE, and EU)--will ensure consistency of plans between the various components. KFOR was also work with JPG on civilian-military issues.

The main components of the UNMIK's mission, as mentioned in SC resolution 1244 and elaborated in the SG's 12 July report are:

a. Civil administration.

UNMIK's civil administration was divided into three functional departments: public administration/civil affairs, police, and judicial affairs.

(i) Public administration. The public administration component seeks to establish a multi-ethnic governmental structure, which would gradually take day-to-day executive control initially exercised by UNMIK. UNMIK staff would also oversee the implementation of policy directives in the municipalities, report on the effectiveness of local bodies, and align the Serb and Kosovo Albanian education systems.

(ii) Police. As for the police component, two main goals were set: provision of interim law enforcement services and the rapid development of a professional, impartial Kosovo Police Service (KPS). KFOR was initially responsible for ensuring public safety and order until the civilian police component of UNMIK was ready to assume authority. When a properly trained and selected local police force is formed, UNMIK would transfer responsibilities for law and order and border policing functions to the KPS.

(iii) Judicial affairs. The ultimate objective of the judicial affairs component is the creation of a genuine rule of law in Kosovo, including the establishment of an independent, impartial and multi-ethnic judiciary. To accomplish this, UNMIK's Judicial Affairs Office was given four major areas of responsibility: the administration of courts, prosecution services and prisons; the development of legal policies; the review and drafting of legislation; and the assessment of the quality of justice in Kosovo. Significantly, UNMIK was authorized to re-establish the Supreme Court of Kosovo and a General Prosecutor's Office.

b. *Institution-building.*

This task is headed by the OSCE. The three main components here are democratization and institution-building, organizing elections, and promotion of human rights.

(i) *Democratization and institution-building.* UNMIK will identify the needs of local civil administrators and train them, as well as facilitate the awareness and involvement of citizens in Kosovo. Over the longer-term, the objective here is develop an 'integrated approach to the strengthening of governance structures', and lay the foundation for democratic and professional media in Kosovo.

(ii) *Elections.* Holding elections in Kosovo was seen as an important part of UNMIK's mandate to 'organize and oversee' the development of provisional institutions for 'democratic and autonomous self-government.' Activities here include the restoration of democratic political organizations and institutions, design and implementation of voter registration, and conducting a census of Kosovo citizens (including refugees and displaced persons).

(iii) *Human rights.* UNMIK pledges to develop mechanisms to ensure that the police, courts and other judicial structures are operating in accordance with international standards of criminal justice and human rights. UNMIK's human rights

c. *Humanitarian affairs.*

This component is led by UNHCR, and has two main departments: humanitarian assistance (to ensure that adequate shelter, food, clean water, medical assistance and employment would be available for the people of Kosovo) and mine action. It should be noted that the United Nations system as a whole is looking into the longer-term rehabilitation, reconstruction, and development of the region.

d. *Reconstruction.*

This task is headed by the European Union. UNMIK was mandated by resolution 1244 to support the 'reconstruction of key infrastructure and other economic reconstruction.' According to the SG Report (12 July), the main functions of this component include: plan and monitor the reconstruction of Kosovo; prepare and evaluate policies in the economic, social, and financial fields; and to coordinate between the various donors and financial institutions to ensure that the financial assistance is directed towards the priorities as set out by UNMIK. Kosovo's reconstruction was planned for three overlapping phases: immediate humanitarian relief, reconstruction and rehabilitation, and the creation of a viable market economy and equitable social system.

IV. EAST TIMOR: NATIONS TRANSITIONAL ADMINISTRATION IN EAST TIMOR (UNTAET) AND UNITED NATIONS MISSION OF SUPPORT IN EAST TIMOR (UNMISSET)

A. Background

In 1975, Indonesia invaded and occupied the former Portuguese colony of East Timor. However, this occupation was not recognized by the UN, and both the General Assembly and the Security Council called for Indonesia's withdrawal. Beginning in 1982, at the General Assembly's request, the UN attempted several successive mediation efforts (involving Portugal and Indonesia) to resolve the situation in East Timor, but to no avail. However, following the election of BJ Habibe as President of Indonesia in 1998, Indonesia proposed limited autonomy for East Timor. Portugal and Indonesia formally requested that the UN Secretary General organize and conduct a 'popular consultation' with the East Timorese people to give them a chance to accept the autonomy option within Indonesia.

To carry out this consultation, the Security Council unanimously passed resolution 1246 on 11 June 1999, authorizing the establishment of the United Nations Mission in East Timor (UNAMET) that would oversee the transition period until the will of the East Timorese people could be implemented. On 30 August 1999, a huge turn-out (98%) among the East Timorese registered voters overwhelmingly (78.5%) decided to reject the proposed autonomy in favor of independence.⁷ Pro-Indonesia militias then began a campaign of violence throughout East Timor, killing hundreds and displacing over 500,000 East Timorese; while UNAMET was forced to partially evacuate. Indonesia, which at first did not respond effectively to the on-going violence, soon bowed to international pressure to accept a SC resolution authorizing the deployment of a multinational force (INTERFET) to restore security in East Timor and protect UNAMET staff. On 28 September, as Indonesia armed forces and police withdrew from East Timor, Indonesia and Portugal agreed to transfer authority to the United Nations. The Indonesian People's Consultative Assembly formally recognized the result of the East Timorese consultation on 19 October, and six days later the UN SC passed resolution 1272 establishing the United Nations Transitional Authority in East Timor (UNTAET) under Chapter VII of the UN Charter.

B. Towards Independence: UNTAET

Resolution 1272 of 25 October 1999 established the creation of UNTAET which 'is endowed with the overall responsibility for the administration of East Timor and is empowered to exercise all legislative and executive authority, including the administration of justice.'⁸ UNTAET's mandate consisted of the following: provide security and maintain law and order throughout East Timor; establish an effective administration; assist in the development of civil and social services; ensure the coordination and delivery of humanitarian assistance, rehabilitation and development assistance; support capacity building for self-government; and assist in the establishment of conditions for sustainable development. Significantly, resolution 1272 'authorizes UNTAET to take all necessary measures to fulfill its mandate'.

As for UNTAET's structure, resolution 1272 adopted the recommendations of the SG in his report of October 1999, including three main components:

1. **Governance and Public Administration.** This component includes an international police force of up to 1,640 civilian police.
2. **Humanitarian Assistance.**
3. **Military component.**

Resolution 1272 also requests that the newly established UN military force cooperate with INTERFET, while gradually replacing them. By February 2000, this process was complete and UNTAET became the sole military authority in East Timor.

⁷ For more information, see "East Timor-UNTAET-Background" [<http://www.un.org/peace/etimor/UntaetB.htm>].

⁸ United Nations Security Council Resolution 1272 [S/RES/1272 (1999)] of 25 October 1999.

Box. 8 The road to independence

Sergio Vieira de Mello (Brazil) was appointed by the SG as his SR in East Timor and the Transitional Administrator (TA). In consultation with the East Timorese political leadership, the TA established the National Consultative Council (NCC)—a political body consisting of four UNTAET members and 11 East Timorese—whose mandate is to oversee the decision-making process during the transition period. The objective was to create local ownership of the transition process. The NCC consented to a series of crucial regulations such as setting up a legal system, setting an official currency, creating border controls, and taxation.

In August 2000—following UNTAET's six month process of reorganization to resemble more closely the future East Timor government and to increase the East Timorese direct participation—the East Timor Transitional Administration (ETTA) was established headed by the TA. The East Timor Defense Force was created soon thereafter, even as the East Timor Police Service was being further expanded. Meanwhile, a National Council (NC) replaced and expanded on the former NCC as the nucleus of a future national assembly. The NC was composed of East Timorese civil society, businesses, political parties, NGOs, and the territories' 13 districts.

On 30 August 2001, just over 91% of the East Timorese eligible voters elected an 88-member Constituent Assembly, whose main tasks were to draft a Constitution and establish a framework for the transition to full independence. The Constitution was duly signed into force on 22 March 2002, while the 14 April presidential elections resulted in Xanana Gusmao's election as East Timor's first president. East Timor received its independence officially on 20 May 2002.

C. Post-independence and UNMISSET

On 17 May 2002—three days before East Timor became independent--UN SC resolution 1410 established the successor mission to UNTAET, the United Nations Mission of Support in East Timor (UNMISSET), based on the SG's report of 17 April 2002.⁹ According to this report, "The plan provides for a continued and appropriately reduced UN peacekeeping mission in the post-independence period to ensure the security and stability of the nascent State. It provides a milestone approach towards the mission's gradual withdrawal over a two year period."¹⁰

UNMISSET's mandate—recently extended to May 2004¹¹--is to provide assistance to core administrative structures critical to the viability and political stability of East Timor; provide interim law enforcement and public security and to assist in developing the East Timor Police Service (ETPS); and contribute to the maintenance of the new country's external and internal security.

Kamalesh Sharam (India) was appointed by the SG as his SR in East Timor to head UNMISSET. Resolution 1410 establishes three components under the SR as outlined in the April 2002 SG report:

- (a) **Civilian component.** Comprises the SR's office with focal points for gender and HIV/AIDS, a Civilian Support Group of up to 100 personnel filing core functions, a Serious Crimes Unit, and a Human Rights Unit.
- (b) **Civilian police component.** Initially comprises 1,250 officers. Its main objective is to ensure that East Timor Police Service (ETPS) continues its development into a professional, accountable credible institution.
- (c) **Military component.** This has an initial strength of 5,000 troops, which would be gradually scaled down as the East Timor Defense Force develops and takes full control (by June 2004 at the latest).

⁹ United Nations Security Council, *Report of the Secretary General on the United Nations Transition Administration in East Timor* (S/2002/432), 17 April 2002.

¹⁰ *Ibid.*, p.10.

¹¹ United Nations Security Council Resolution 1480 [S/RES/1480 (2003)] on 19 May 2003.

UNMISSET is further requested to give full effect to the three Programmes of the Mandate Implementation Plan (as set out in the SG's April report), namely: (1) Stability, Democracy and Justice; (2) Public Security and Law Enforcement; and (3) External Security and Border Control. Finally, resolution 1410 affirms that UNMISSET will, over two years, 'fully devolve all operational responsibilities to the East Timorese authorities as soon as feasible.'

V. AFGHANISTAN: UNITED NATIONS ASSISTANCE MISSION IN AFGHANISTAN (UNAMA)

A. Background

Following the attacks of 11 September 2001 on the Twin Towers of New York City, the US... On 7 October 2001, a US led coalition began its war on the Taliban government and Al-Qaida network. The attacks ended in mid-November, with the removal of Taliban from power.

The UN sponsored a peace conference in Bonn, Germany. The resulting "Agreement on Provisional Arrangements in Afghanistan Pending the Re-establishment of Permanent Government Institutions", known as the Bonn Agreement, was concluded on 5 December 2001.¹² It set up an Interim Authority consisting of an Interim Administration presided over by a Chairman (Hamid Karzai), a Special Independent Commission for the Convening of the Emergency Loya Jirga, a Supreme Court of Afghanistan, and any other courts that may be established by the Interim Administration. An Emergency Loya Jirga would then be convened within 6 months in order to decide on a Transitional Authority (including a broad-based transitional administration) to lead Afghanistan until the election of fully representative government not more than 2 years following the date of convening the Emergency Loya Jirga. In addition, a Constitutional Loya Jirga is to be convened within 18 months of the establishment of the Transitional Authority to adopt a new Constitution. Finally, the Bonn Agreement mandates that the Transitional Administration, with the assistance of the UN, is to establish a Constitutional Commission within 2 months of its commencement in order to prepare the proposed Constitution.

Box. 9 The Emergency Loya Jirga

Loya Jirga means "Grand Assembly", and is the traditional method used historically by Afghans to solve problems and allow people to voice their opinions through their representatives.¹³

The Bonn Agreements stipulated that an Emergency Loya Jirga would be held within six months of the establishment of the Afghan Interim Authority (which was installed on 22 December 2001). The Emergency Loya Jirga's mandate was to transfer power from the Interim Authority to a Transitional Administration, and to elect the head of a new Administration.

The Special Independent Commission for the Convening of the Emergency Loya Jirga was established on 25 January 2002. Over 1,500 delegates from 400 districts in Afghanistan were elected by district representatives. The Emergency Jirga convened from 12-19 June 2002 in a Kabul tent, with the UN providing crucial logistical and technical support.

Hamad Karzai was ultimately elected by secret ballot as President of the new Transitional Administration. According to the Bonn Agreement, the Transitional Administration should conduct general elections within two years (i.e., by June 2004).

Annex II of the Bonn Agreement spells out the "Role of the United Nations During the Interim Period". In it, the SR is held responsible for all aspects of the UN's work in Afghanistan, including the monitoring and assisting in implementation of all aspects of the Bonn Agreement. The UN is requested to advise the Interim

¹² *Agreement on Provisional Arrangements in Afghanistan Pending the Re-establishment of Permanent Government Institutions* [http://www.unama-afg.org/docs/bonn/bonn_p.html].

¹³ UNAMA, *Fact Sheet: Bonn Agreement* [<http://www.unama-afg.org>].

Authority in establishing a politically neutral environment conducive to the holding of the Emergency Loya Jirga (ELJ). In case of any disputes within the Interim Administration related to the convening of the ELJ, the SR is requested to facilitate a resolution.

UN SC resolution 1383 endorsed the Bonn Agreement, while SC resolution 1386 (20 December 2001) authorized the establishment of the International Security Assistance Force (ISAF) to help maintain security in Kabul. Lakhdar Brahimi (Algeria) was appointed by the SG as his Special Representative (SR).

B. UNAMA

UN SC resolution 1401 (28 March 2002)¹⁴ endorsed the establishment of UNAMA, originally proposed in the SG's 18 March 2002 report to the SC.¹⁵ UNAMA's mandate includes promoting national reconciliation; fulfilling the tasks and responsibilities entrusted to the UN in the Bonn Agreement; and managing all UN humanitarian, relief, recovery and reconstruction activities in Afghanistan in coordination with the Afghan government. Basically, the SG asserted that UNAMA should be a 'unified, integrated structure' under the authority of the SR for Afghanistan, and its overall objective should be to provide support for the implementation of the Bonn Agreement processes.

The SG's 18 March report outlines two main 'pillars' of UNAMA: political affairs and humanitarian/development. It is the SR who has the responsibility to ensure that the requisite inter-pillar coordination occurs.

(i) Political affairs pillar. Headed by a Deputy SR for Political Affairs, this 'pillar' would be responsible for such things as: monitoring, analyzing, and reporting on the overall political and human rights situation and status of the implementation of the Bonn Agreement; supporting the work for the SIC for the Emergency Loya Jirga; maintaining contact with Afghan leaders and civil society groups; and investigating human rights violations.

(ii) Relief, recovery and reconstruction pillar. Headed by a Deputy SR for Relief, Recovery, and Reconstruction, this 'pillar' would direct and oversee the reconstruction activities (including reintegration of refugees and internally displaced persons). Its main tasks include articulating a strategic vision for the UN assistance role in Afghanistan, developing an integrated assistance program that is fully accountable, and supporting capacity-building in Afghan administrations and organizations at the national and sub-national levels 'to develop policy-making, planning, management, assessment and coordination capabilities.'

C. Assessing the UN's Role in Afghanistan

According to the SG, the persistent lack of security in Afghanistan remains the most serious challenge facing the Afghan Transitional Administration. As such, "the most urgent national project remains the creation of security forces that are acceptable to the overwhelming majority of the Afghan people."¹⁶ On 6 July 2002, Vice-President of the Transitional Administration (Haji Qadir) was assassinated, and the number of violent incidents throughout Afghanistan has risen. However, the presence of ISAF in Kabul has made the situation somewhat safer.

The UN has been more successful in cooperating with Afghan authorities to voluntarily repatriate refugees. Some 1.7 million Afghan refugees have returned to Afghanistan from Pakistan, Iran, and Central Asia by the end of 2002. A further 400,000 internally displaced persons (IDPs) have also returned to their areas of origin.¹⁷ However, the real challenge is in assisting these refugees and IDPs to re-build their lives.

¹⁴ United Nations Security Council, Resolution 1401 [S/RES/1401 (2002)].

¹⁵ United Nations Security Council, *The situation in Afghanistan and its implications for international peace and security, Report of the Secretary-General* (S/2002/278) of 18 March 2002.

¹⁶ United Nations Security Council, *The situation in Afghanistan and its implications for international peace and security, Report of the Secretary-General* (S/2002/1173) of 21 October 2002, p. 9.

¹⁷ *Ibid.*, p. 10.

UNAMA has continued to assert that the UN's main priority in Afghanistan remains the strengthening the capacity of the Transitional Administration in order to ensure effective reconstruction. It is recognized, however, that the precondition for this is increased security, especially outside Kabul. SR Lakhdar Brahimi has stated before the SC that "the expansion of ISAF would have an enormous impact on security."

The path towards elections in 2004 remains fraught with danger, and the possibility of the resumption of ethnic clashes. Despite the UNAMA's effort, the lack of resources and political commitment means that the situation in Afghanistan remains precarious.

VI. PRELIMINARY LESSONS FROM PREVIOUS UN PEACE OPERATIONS

In the words of Lakhdar Brahimi, "the main lesson to learn from previous UN peace operations is that each operation is unique."¹⁸ Clearly, this principle is of paramount importance. Each mission has its own specific conditions and any UN intervention should take the specific cultural, political, historical and institutional context into account. In the case of Iraq, there is an argument that this rule is especially relevant given the unprecedented power of one country, the US.

Still, the UN itself has attempted to learn from its past experiences in order to fine-tune present and future peace operations. A "Lessons Learned Unit" in the Peacekeeping Department has been formed and undertaken studies of multi-disciplinary peacekeeping operations in such countries as Somalia, Rwanda, Haiti, and Angola. Among the lessons learned, according to the "Lessons Learned Unit" are the following¹⁹:

- The UN should be actively involved in the negotiations of peace accords, cease-fire agreements or other accords that define its role in a conflict situation. Before the Organization takes on peace-keeping task, the parties must demonstrate a commitment to implementing the accords.
- The mandate for a peacekeeping operation should be clear, realistic and practicable and provide for the necessary means for implementation.
- The Security Council, the General Assembly and Member States, collectively and individually, should provide a peacekeeping operation with adequate means and resources to implement its mandate.
- Mandates should be conceptualized flexibly and could include elements of peace-building and emergency reconstruction of war-torn economies.
- The planning of a multi-disciplinary peacekeeping operation should cover the full range of its activities. After approval by the SC, the mandate should be translated into an operational plan with detailed and specific activities for each component.
- Effective coordination of all components of a peacekeeping operation is essential to the overall success of the mission. There must be clearly defined common goals and objectives.
- Detailed standard operating procedures for all functions of the military component should be developed. A security plan should be prepared immediately upon the start-up of a mission.
- The training of local police should be envisioned as part of long-term peace building activities of the mission and within the context of security, human rights, and public administration systems.
- The physical infrastructure has to be improved along with the delivery of humanitarian assistance.
- Successful information campaign strategy, and good media relations are required.
- The support of the local population is essential to the success of the peacekeeping operation. The local population should perceive the mission and its staff as being impartial.
- The UN must also demonstrate a commitment to the principles of transparency and accountability in its activities.
- Respect for cultural traditions and social mores of the local population is an important part of maintaining good relations with the local population.
- Efforts at peace-building can be an effective way of winning over the local population and increasing grass-roots support for the operation.

¹⁸ Personal interview (Beirut, June 28 2003).

¹⁹ Based on the report, "Multi-disciplinary Peacekeeping: Lessons Learned from Recent Experience", United Nations, April 1999, <http://www.globalpolicy.org/security/peacekpg/lessons/lesson.htm>.

VII. THE UNITED NATIONS ROLE IN IRAQ: PRELIMINARY ANALYSIS

In Iraq, the UN could draw on the rich experience and expertise it accumulated from all the above-mentioned missions. It should also benefit from their "lessons".

1. *The specifics of the Iraq case*

However, it is important to underline two important sets of differences between the case in Iraq and the other conflicts or post-conflict cases where the UN came to play a significant role.

First, the actual situation in Iraq is that of a collapsed government and of an occupied country, while :

- Afghanistan presented the features of a disintegrating State with a Central Government (Taliban) recognized by only three States; and parts of the country ruled by de facto forces (Northern Alliance).
- Kosovo was neither a State nor had a local government as an autonomous entity.
- East Timor had to be built from "level zero" in terms of Statehood .
- Cambodia was not only suffering from the consequences of foreign occupations but was torn by civil wars as well.

Second, In all four above mentioned cases, the UN had a relatively well defined mandate granting it a leading role in the political reconstruction process with specific responsibilities and clear authority to carry out its task. In contrast, under resolution 1483, the UN mandate in post war Iraq remains ill-defined and the UN is neither granted a "leading role" nor "clear authority". In fact, while the "independent" nature of the Special Representative's responsibilities is asserted, the SR is nonetheless requested to work "intensively" with the Occupying Powers which are granted the very broad legal mandate "to promote the welfare of the Iraqi people through the effective administration of the territory" after calling upon them to comply with the obligations of Occupying Powers under the 1949 Geneva Conventions and the 1907 Hague regulations .

2. *Opportunities for the UN under SC resolution 1483*

However, and in spite of the unprecedented sweeping mandate and leading role granted to the Occupying Powers under S.C. resolution 1483, the UN may still play a meaningful- though most likely not leading- role in the political reconstruction of Iraq. International pressure on the US and UK has meant that the UN role has not been restricted purely to "humanitarian assistance" but broadened to include "the restoration and establishment of national and local institutions for representative government". In addition, the "independent responsibilities" of the Special Representative of the S.G. involve the task of facilitating "a process leading to an internationally recognized, representative government of Iraq". To that end, the SR is asked to work "intensively" with not only the Occupying Powers "Authority", but with "the people of Iraq" and "others concerned" as well.

This vague mandate may open the door for an important UN role in Iraq. However, the UN should work to demonstrate its relevance and the value of the role it can play given its unique expertise and experience in conflict and post-conflict situations. It should also demonstrate why only the UN can play such a role, emphasizing, for instance, the critical importance of its "neutrality" as a "political facilitator".

However, to accomplish this, the UN cannot develop a vision that directly challenges the role of the Occupying Powers. Rather, the UN must convince them that the UN cannot be dispensed with in the political reconstruction of Iraq. In other words, the proposed UN vision for post-war Iraq cannot be portrayed as a UN versus a U.S. role; but rather as a symbiotic relationship in which both sides (US/UK and UN) are needed.

Notwithstanding the overwhelming mandate granted under S.C. resolution 1483 to the "coalition forces", the US and the UK may still need the UN umbrella in order to :

First : Enhance the legitimacy of any new proposed interim administration or government vis-à-vis :

- The Iraqis themselves
- The rest of the Arab world
- The International powers which had opposed the war, in spite of their new pragmatic attitude -- as reflected in their approval of resolution 1483.

Second: Help secure international aid, mainly from EU countries, for the reconstruction and rehabilitation of Iraq.

2. *What the UN Role in Iraq could entail*

If and when the above political conditions are met, and given the domestic power vacuum resulting from the collapse of the Iraqi government, the UN, based on its past expertise and experience in other conflicts or post conflict situations, could play a critical role in the political reconstruction process. More specifically, it could :

- Support National reconciliation and promote dialogue and consensus building among the various Iraqi ethnic and religious group.
- Oversee the formation of an Iraqi transitional administration
- Facilitate the establishment of a representative and inclusive government
- Supervise the election of a constitutional assembly
- Share its experience in helping to design new political institutions in post conflict situations
- Help in the rebuilding of Iraqi civil society by offering through UNDP and other relevant IGOs special programs to that effect.
- Ensure that the conduct of transitional justice regarding the prosecution of Saddam's regime war crimes and violations of human rights remains in conformity with international law and requirements of due process.
- Ensure as well that the disarmament of Iraq is carried out pursuant to UN resolutions and not in a punitive manner.

Finally, coordination of the humanitarian assistance is the least politically controversial of the UN roles in Iraq. What had been contentious was whether the UN role in Iraq should be restricted to humanitarian assistance.

Regarding humanitarian assistance as such, the UN can draw on its Iraqi experience in managing the Oil for Food program as well as on its other International experiences in successfully coordinating humanitarian efforts, such as in Afghanistan and Kosovo, both among different IGOs and between IGOs and NGOs. It should also be noted here, that in addition to providing needed relief, the UN humanitarian assistance role could be critical in helping rebuild the Iraqi Civil Society.

In conclusion, it is up to the UN to carve out a role for itself in Iraq. It has the opportunity to do so under resolution 1483. Although required to coordinate its activities with the Occupying Powers, it should not be perceived as working under their 'authority'.

A meaningful UN role in Iraq depends on the international community demonstrating that such a role cannot be dispensed with. The *success* of such a role will depend on re-enforcing UN "independence" vis-à-vis the Occupying Powers, while coordinating with them.